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EXAMINER

UBER, NATHAN C

ART UNIT	PAPER NUMBER
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3622

NOTIFICATION DATE	DELIVERY MODE
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08/05/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/620,494	Applicant(s) LUU, DUC THONG	
	Examiner NATHAN C. UBER	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-12, 14-16 and 19-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-12, 14-16 and 19-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This action is in reply to the RCE filed on 13 May 2010.
2. Claims 1, 23, 27, 29, 33, 37 and 39 have been amended.
3. Claims 17 and 18 have been canceled.
4. Claims 1-8, 10-12, 14-16 and 19-39 are currently pending and have been examined.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1, 23, 33, 37 and 39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant amended the independent claims to further limit the limitation "total booked amount;" however there is no support in the specification for this amendment. There is no definition of "total booked amount" in the specification and there is no recitation disclosing what "total booked amount" comprises. The newly added limitation is considered impermissible new matter.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-8, 10-12 and 14-39 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

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regards as the invention. Examiner reconsidered this rejection in light of Applicant's response (see page 9 of Applicant's remarks). Applicant's response broadly directing Examiner's attention to ¶¶0016, ¶¶0038-0062 and ¶¶0126-0149 of the specification did not sufficiently indicate where in the specification this indefinite claim language is supported. Examiner found no clear definitions of the following limitations in the cited paragraphs. These rejections are maintained in the present office action with respect to the claim terms listed below. For the purposes of this examination Examiner assumes that Applicant accepts Examiner's interpretation of the indefinite claim language cited in the previous office action and repeated below.

- Line = parameter that distinguishes aspects of an ad campaign such as a demographic or media venue (tv vs. internet)
- Web property = a web site (collection of web pages, see ¶0031 of the specification)
- Booked amount = price

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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11. Claims 1-4, 6-8, 10-12, 14-16, 19-27 and 29-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Del Sesto (U.S. 6,985,882) in view of Hennessey (U.S. 2003/0050827).

Claims 1, 23, 33, 37 and 39:

Del Sesto, as shown, discloses the following limitations:

- *specifying a target Gross Rating Point (GRP) for each of one or more lines of an advertising contract associated with an Internet advertising campaign (see at least Figure 4J, market goal GRP),*
- *specifying a total booked amount for the one or more lines (see at least Figure 4J, total budget),*
- *wherein the total booked amount comprises a total amount reserved for the one or more lines (see at least Figure 4J, total budget; Examiner notes that 'budget' means a sum of money allocated for a particular purpose),*

Although Del Sesto does disclose a display and tracking feature of advertisements over time (see at least figure 4J, "GRP per day part"), Del Sesto does not specifically disclose the apportionment/dividing of the target GRP by time of day as in the limitations below.

However, Hennessey, as shown, does:

- *apportioning, via a computer device, the target GRP among one or more time periods of the Internet advertising campaign (see at least Figure 6, the GRP is divided by day parts),*
- *apportioning, via a computer device, the total booked amount among the time periods (see at least Figure 7, the budget is divided by day parts),*
- *wherein recognized revenue is based on the apportioned target GRP and the apportioned total booked amount (see at least Figure 11),*
- *visibly display[ing] the recognized revenue on a user interface on a display of the computer device (see at least Figure 7),*

The Del Sesto/Hennessey combination does not specifically disclose the following limitation, however Alvarez, as shown, does:

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- *each of the one or more lines is related to an individual Web property (see at least the Abstract, "[t]his method measures all known forms of media... such as internet banners and email..."),*

The primary difference between Del Sesto and Hennessey is that Del Sesto contemplates a prepaid contract and focuses on tracking advertising actually distributed and making good on the contract eventually, while Hennessey has a more "real-time" focus so that it can use data to more accurately predict advertising revenue and set more competitive advertising prices. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the two features above in the context of an "after-the-fact" invoicing plan because the tracking features of Del Sesto combined with the time display format of Hennessey reflect the actual performance and value of the service provider in distributing the advertisement over the defined period of time enabling the advertiser to pay only for the services received and retain its remaining advertising budget until the service provider later makes good on the contract. The Del Sesto/Hennessey combination to not contemplate a full range of media applications including web advertising, however the combination of the Del Sesto/Hennessey billing teachings with the Alvarez teaching which demonstrated web-advertising it would have been obvious to one having ordinary skill in the art at the time the invention was made since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claims 2, 25 and 34:

The combination of Del Sesto/Hennessey discloses the limitations as shown in the rejection above. Although Del Sesto does disclose a display and tracking feature of advertisements over time, Del Sesto does not specifically disclose the apportionment of the target GRP as in the limitation below. However, Hennessey, as shown, does:

- *the target GRP is apportioned equally among the time periods* (see at least Figure 7 and ¶0027).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the two features above in the context of an “after-the-fact” invoicing plan because the tracking features of Del Sesto combined with the time display format of Hennessey reflect the actual performance and value of the service provider in distributing the advertisement over the defined period of time enabling the advertiser to pay only for the services received and retain its remaining advertising budget until the service provider later makes good on the contract.

Claims 3, 26 and 35:

The combination of Del Sesto/Hennessey discloses the limitations as shown in the rejections above. Although Del Sesto does disclose a display and tracking feature of advertisements over time, Del Sesto does not specifically disclose the apportionment of the target GRP as in the limitation below. However, Hennessey, as shown, does:

- *the booked amount is apportioned equally among the time periods* (see at least Figure 7 and ¶0027).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the two features above in the context of an “after-the-fact” invoicing plan because the tracking features of Del Sesto combined with the time display format of Hennessey reflect the actual performance and value of the service provider in distributing the advertisement over the defined period of time enabling the advertiser to pay only for the services received and retain its remaining advertising budget until the service provider later makes good on the contract.

Claims 4, 24, 36 and 38:

The combination of Del Sesto/Hennessey discloses the limitations as shown in the rejections above. Del Sesto, as shown, discloses the following limitations:

- *determining an actual GRP achieved for the time periods (see at least Figure 4J),*
- *determining recognized revenue for the time periods such that a ratio of the recognized revenue to the total booked amount is based on a ratio of the actual GRP to the target GRP (see at least Figure 4J).*

Claims 6 and 27:

The combination of Del Sesto/Hennessey discloses the limitations as shown in the rejections above. Del Sesto, as shown, discloses the following limitation:

- *the ratio of recognized revenue to the total booked amount equals the ratio of the actual GRP to the target GRP for the lines (see at least Figure 4J).*

Claims 7 and 30:

The combination of Del Sesto/Hennessey discloses the limitations as shown in the rejections above. Although Del Sesto does disclose a display and tracking feature of advertisements over time, Del Sesto does not specifically disclose the apportionment of the revenue as in the limitation below. However, Hennessey, as shown, does:

- *the ratio of recognized revenue for a particular time period to the total booked amount for a particular line is equal to the ratio of actual GRP to the target GRP for a particular line (see at least Figure 11).*

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the two features above in the context of an “after-the-fact” invoicing plan because the tracking features of Del Sesto combined with the time display format of Hennessey reflect the actual performance and value of the service provider in distributing the advertisement over the defined period of time enabling the advertiser to pay only for the services received and retain its remaining advertising budget until the service provider later makes good on the contract.

Claims 8, 29 and 31:

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The combination of Del Sesto/Hennessey discloses the limitations as shown in the rejections above. Del Sesto does not specifically disclose:

- *determining an invoice amount for a billing period*
- *the invoice amount being calculated by adding recognized revenue for the one or more lines for the time periods falling within the billing period*

However, the Examiner takes **Official Notice** that it is old and well-known in the art to bill advertisers by invoice for services rendered over an established period of time. Furthermore, the Examiner takes **Official Notice** that it is old and well-known that invoice amounts typically represent a sum of the cost of services rendered over the period of time the invoice contemplates.

Ergo, it would have been obvious to one having ordinary skill in the art at the time of the invention to total the *recognized revenue* (which Del Sesto does disclose as shown above) within a prescribed period to determine an invoice amount because this is the only means available within the art (referring to the combination of Del Sesto/Hennessey) to value the service of distributing advertisements in terms of dollars and both the service provider and the advertiser are interested in paying and receiving payment for the value of services rendered.

Claims 10 and 32:

The combination of Del Sesto/Hennessey discloses the limitations as shown in the rejections above. Del Sesto does not disclose the limitation below:

- *adding revenue for a particular time period that falls partially within the billing period based on an amount of time that a particular time period falls within the billing period (examiner takes official notice that Applicant has described prorating charges for services that may overlap billing cycles, and that such a method is known in the art).*

It would have been obvious to one having ordinary skill in the art at the time of the invention to add the commonly known capability of prorating invoices to the methods

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contemplated by Del Sesto/Hennessy shown above because adding this feature enables the advertiser to see the effectiveness of their advertisements not only over conventional time periods (like weeks or months or days or day parts) but also in a completely customized time period (any arbitrarily defined billing period) which may be beneficial to one or the other for accounting purposes for example.

Claims 11 and 12:

The combination of Del Sesto/Hennessey discloses the limitations as shown in the rejections above. Del Sesto does not limit time periods to weeks or months, however Del Sesto does contemplate analysis over various time periods, as shown:

- *the time period is a week* (see at least Figure 4L, flight dates),

With regard to the limitation of *wherein the billing period is a month* (Del Sesto does not define billing periods, the examiner takes **Official Notice** that it is old and well-known that a billing period may be a calendar month and in fact a calendar month is a conventional time period to use to define billing cycles. It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the weekly analysis capabilities of the Del Sesto invention with monthly billing cycles because monthly billing cycles are very common in the art and are therefore very accommodating for accounting purposes.

Claim 14:

The combination of Del Sesto/Hennessey discloses the limitations as shown in the rejections above. Del Sesto does not disclose the limitation below:

- *capping the invoice amount for a line to an amount for the line for the billing period,*

Examiner takes official notice that in many service contracts, invoices are capped at a prescribed amount. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to ensure that any invoicing system is capable of working with in such a parameter if necessary.

Claim 15:

The combination of Del Sesto/Hennessey discloses the limitations as shown in the rejections above. Del Sesto, as shown, discloses the following limitation:

- *when a total actual GRP for a billing period for a particular line differs from a total target GRP for the particular line for the billing period, applying the difference between the total actual GRP and the total target GRP for the billing period to a subsequent billing period (see at least Figure 4J).*

Claim 16:

The combination of Del Sesto/Hennessey discloses the limitations as shown in the rejections above. Del Sesto, as shown, discloses the following limitation:

- *when the total actual GRP for the billing period for a particular line is less than the total target GRP for the particular line for the billing period, applying the difference between the total actual GRP and the total target GRP to a subsequent billing period (see at least Figure 4J).*

Claim 19:

The combination of Del Sesto/Hennessey discloses the limitations as shown in the rejections above. Del Sesto, as shown, discloses the following limitation:

- *any difference between an actual weekly GRP and a target weekly GRP is automatically carried over to the subsequent week, if a subsequent week is within a same calendar month (see at least Figure 4J).*

Claim 20:

The combination of Del Sesto/Hennessey discloses the limitations as shown in the rejections above. Del Sesto, as shown, discloses the following limitation:

- *the difference is calculated for each of the lines of the Internet advertising campaign (see at least Figure 4J).*

Claim 21:

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The combination of Del Sesto/Hennessey discloses the limitations as shown in the rejections above. Del Sesto, as shown, discloses the following limitation:

- *recognized revenue is separately calculated for each of the lines* (see at least Figure 4J).

Claim 22:

The combination of Del Sesto/Hennessey discloses the limitations as shown in the rejections above. Del Sesto, as shown, discloses the following limitation:

- *the billing period of each of the lines is independent of other lines* (see at least Figure 4B).

12. Claims 5 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Del Sesto/Hennessey and further in view of Alvarez et al. (U.S. 6,772,129).

Claims 5 and 28:

The combination of Del Sesto/Hennessey discloses the limitations as shown in the rejections above. Del Sesto does not disclose the following limitation as Del Sesto is focused on media distribution in television and radio formats. However, Alvarez, as shown, does disclose the following limitation:

- *serving advertisements on one or more Web pages in accordance with campaign parameters* (see at least the Abstract, "[t]his method measures all known forms of media... such as internet banners and email...").

The Alvarez invention is focuses only on measuring the effectiveness and efficiency of advertising and as such it contemplates a wider array of media. Among the various variables Alvarez uses to establish the effectiveness of an advertisement, Alvarez also relies on a comparison target GRPs and actual GRPs. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the wider media capabilities of Alvarez with the more robust contract/billing monitoring capabilities of Del Sesto because this combination can bring all of the benefits of the Del Sesto invention to campaigns that span the full range of advertising venues.

Response to Arguments

13. Applicant's arguments filed 13 May 2010 have been fully considered but they are not persuasive.
14. Applicant attempted to demonstrate where in the specification indefinite terminology used in the claims is defined. However, Applicant was unsuccessful in this endeavor. With respect to the claim term 'line' Applicant argues that paragraphs 14 and 31 of the specification define "line" as a "line in an advertising contract." Specifically, Applicant writes "A line is described in the Specification as a line in an advertising contract..." (see page 9 of Applicant's remarks). This assertion is false. In fact the cited paragraphs of the specification detail what a line "specifies." The quoted text (from ¶¶ 0014 and 0031 of the specification) states that "Each line specifies any one or more of the following criteria: the particular ad; the Web property on which the ad is to appear; start date; end date/duration; pricing (i.e. booked amount of money); GRP; and the like." This is not a definition of 'line.' Nor does this paragraph indicate that a line *is* a line in an advertising contract as alleged in Applicant's argument. Examiner maintains Examiner's 112 indefinite rejection. Applicant further argues that "it is clear from the Specification as filed that a line as presently claimed is a contracted for line that specifies a particular ad to be run and any one or more advertising characteristics associated therewith" (see page 9 of Applicant's remarks), Examiner disagrees. First, Applicant is attempting to provide a definition by Attorney argument rather than relying on a definition from the specification. Second, the statement "...a line [is] a contracted for line..." is circular because it fails to define "line," it only further describes "line" as "contracted for." Third, describing a "line" by stating that a "line" specifies a particular ad or any ad characteristic, only adds to the confusion about what in fact a "line" is rather than clarifies the meaning. We now only that the data content of a line is highly variable, and may contain ad information or just characteristics of ads or both; but we still don't know what a line is and thus what Applicant claims to have invented. Further the specification provides other glimmers of what a line might be that appear to be contrary to Applicant's assertion that a line is a line in a contract. For example, ¶ 0042 that a sales representative enters the line and "the line becomes populated

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by advertising characteristic target data.” In order for a “line” to be something that may be “populated” it probably is not a line in a contract as Applicant alleges. Perhaps the “line” in ¶0042 is a field in a database? Further complicating matters, in figure 2 of the specification an example of a line is presented. In this version of a line, there are three lines of data and a chart with more data as well as directional arrows and summation columns. Examiner does not see a contract in figure 2, nor anything that might be entered or populated. Accordingly, Examiner is not convinced that the specification adequately defines the claimed limitation “line.” Examiner is not persuaded by Applicant’s arguments because Applicant’s arguments fail to demonstrate an adequate definition in the specification for the term “line.” The asserted definition, which is also not supported in the specification, does not appear to comport with every use of the word line in the specification. This rejection is maintained.

15. Similarly Applicant’s arguments with respect to ‘web property’ and ‘booked amount’ are not supported in the specification as argued on pages 9-10 of Applicant’s remarks. Applicant argues that ¶0031 of the specification defines “web property” however as previously noted this paragraph does not offer a definition, it merely uses the term. When the specification indicates that a “web property may be...” something, the specification fails to indicate what a web property “is.” Examples are not definitions. Similarly Applicant relies on examples of “booked amounts” in figures 2, 3a and 3b and language in ¶¶0016, 0013, 0035 and 0036 of the specification which use the words “booked amount” but fail to define the term. As stated above, Examiner has interpreted these indefinite terms in light of the examples in the specification; however Applicant here argues that Examiner’s interpretation is incorrect. With regard to “booked amount” and “web property,” Examiner does not see a difference between Examiner’s interpretation of these terms and Applicant’s preferred definition as related in Applicant’s arguments. Nevertheless, the terms remain indefinite in the claims because although they appear throughout the specification, they are not defined. Applicant’s reference to dictionary.com in April 2010 is noted, but is not relevant to this examination as the examination is based on the technological understanding at the time the application was filed.

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16. Applicant continues to argue that Applicant's claimed "total booked amount" is distinguishable over the teaching of a budget in Del Sesto (see pages 11 and 12 of Applicant's remarks). Examiner does not agree that the alleged distinction exists. In the first place, as previously mentioned, Applicant relies on attorney argument to interpret and define "total booked amount" which is rejected for being indefinite and is not defined by the original disclosure. Attorney argument may not be relied on to introduce new matter into the claims. Next Applicant relies on the improper/insufficient attorney-argued interpretation/definition to allege a distinction between the prior art and the claims. However, even assuming, for the sake of argument, Applicant's definition of "booked amount," the alleged distinction still does not exist. Further Applicant presents no argument indicating why, if the distinction were there, it is a patentable distinction.
17. Applicant argues with respect to claim 1 that Alvarez does not teach the claimed subject matter (see page 12 of Applicant's remarks). Alvarez is relied on to teach the limitation "...one or more lines of an advertising contract associated with an internet advertising campaign" and as noted, the Alvarez invention discloses internet advertising campaigns. Examiner does not see, because Applicant did not explain, a distinction between the broad recitation of an "association" with internet advertising in the claims and the Alvarez disclosure indicating that multiple aspects of internet ad campaigns are determined and stored and used for further determinations.
18. Applicant reiterates Applicant's position with respect to the claimed "booked amount" in Applicant's arguments against the Hennessy reference (see page 13 of Applicant's remarks). Again, as noted, Examiner is not convinced that the apportioned amounts taught by the Hennessy invention are patentably distinguishable from Applicant's claimed "booked amount" and Applicant presents no persuasive argument beyond mere assertions in support of Applicant's position. Applicant also fails to explain why such a distinction in, if it existed, would lead to a patentable distinction over the prior art.
19. On page 14 of Applicant's remarks, Applicant notes that Examiner relies on Official Notice in rejecting claims 9, 11, 12, 29 and 31, then states "Applicant respectfully traverses the taking of Official Notice and requests that the Examiner provide documentary evidence to show these

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claim elements" (see page 14 of Applicant's remarks). To adequately traverse the Examiner's assertion of Official Notice, the Applicant must specifically point out the supposed errors in the Examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. Applicant failed to identify errors including why Applicant believes the officially noticed facts are not considered common knowledge or well known in the art. Accordingly, the common knowledge or well-known in the art statements are taken to be admitted prior art because Applicant failed to adequately traverse the Examiner's assertion of official notice. (see generally MPEP 2144.03(c)).

Conclusion

20. Applicant's amendment necessitated the new ground of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
21. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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- 22.** Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Nathan C Uber** whose telephone number is **571.270.3923**. The Examiner can normally be reached on Monday-Friday, 8:30am-4:00pm EST. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Eric Stamber** can be reached at **571.272.6724**.
- 23.** Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).
- 24.** Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

P.O. Box 1450, Alexandria, VA 22313-1450

or faxed to **571-273-8300**.

- 25.** Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window**:

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/Nathan C Uber/ Examiner, Art Unit 3622
27 July 2010

/Arthur Duran/
Primary Examiner, Art Unit 3622